

# **EXHIBIT N**

1 CAUSE NO. GV002327

2 THE STATE OF TEXAS ) IN THE DISTRICT COURT  
ex rel. )

3 VEN-A-CARE OF THE )  
FLORIDA KEYS, INC. )

4 )  
Plaintiffs, )

5 )  
VS. ) TRAVIS COUNTY, TEXAS

6 )  
DEY, INC.; ROXANE )  
7 LABORATORIES, INC. and )  
WARRICK PHARMACEUTICALS )

8 CORPORATION, )  
Defendants. ) 53rd JUDICIAL DISTRICT

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11 ORAL AND VIDEOTAPED DEPOSITION OF

12 ROBERT FRANCIS MOZAK  
VOLUME II  
13 April 30th, 2002

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15 ORAL AND VIDEOTAPED DEPOSITION OF

16 ROBERT FRANCIS MOZAK, produced as a witness at the  
17 instance of the State of Texas and duly sworn, was  
18 taken in the above-styled and numbered cause on the  
19 30th of April, 2002, from 9:09 a.m. to 5:02 p.m.,  
20 before Debra L. Sietsma, CSR in and for the State of  
21 Texas, reported by machine shorthand, at Coudert  
22 Brothers, 600 Beach Street, San Francisco, California,  
23 pursuant to the Texas Rules of Civil Procedure and the  
24 provisions as previously set forth.

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1 one, to bring it closer to the contract prices.

2 That's the first reason. You stated it yourself.

3 And secondly, it -- it reduced the cash  
4 discount we might be paying to a wholesaler on a lower  
5 WAC versus a higher WAC, and those were the -- the  
6 principal reasons we would lower our WAC.

7 Q. Let's take those two in order.

8 You said that the first answer was just  
9 to bring it closer to the contract price?

10 A. That's correct.

11 Q. Why would you have any desire to bring the  
12 WAC closer to the contract price?

13 A. Because it reduced the -- the spread between  
14 the contract price and the WAC, which, in turn,  
15 reduced our chargebacks or reduced the chargebacks  
16 that the wholesaler would claim from Dey Laboratories.  
17 So instead of a larger -- as the contract price came  
18 down, the amount of the chargeback grew, so we lowered  
19 the -- the WAC price so that the chargeback would also  
20 be reduced.

21 Q. So it's a cost-saving measure for Dey to  
22 lessen the amount that it has to pay back to the  
23 wholesaler in the form of a chargeback?

24 A. Well, it also lessens the -- the  
25 out-of-pocket to the wholesaler as well.

1 Do you see that?

2 A. Yes.

3 Q. Why?

4 A. Because it was -- it was too low for the  
5 market and it was lower than our FSS and VA price.

6 Q. What is the FSS and VA price?

7 A. Federal Supply Schedule and VA.

8 Q. That would be the lowest price you'd give to  
9 your -- your best commercial customers?

10 A. Yes.

11 Q. And then you report it to the Federal  
12 government for their --

13 A. Yes.

14 Q. -- for direct purchases by the government?

15 A. Yes.

16 Q. Okay.

17 A. Or if we would have lowered the -- the Anda  
18 price or any price below it, then we would have  
19 adjusted the FSS price and VA price accordingly below  
20 that price.

21 Q. Okay. Now, then you -- I guess that's  
22 your -- your handwriting, "Too low. We should net to  
23 no lower than 1325 for now."

24 A. That's correct. That's my handwriting. That  
25 would have been above the FSS price.

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1 I, ROBERT FRANCIS MOZAK, have read the foregoing  
2 deposition and hereby affix my signature that same is  
3 true and correct, except as noted above.

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ROBERT FRANCIS MOZAK

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8 THE STATE OF )

9 COUNTY OF )

10 Before me, , on this  
11 day personally appeared ROBERT FRANCIS MOZAK,  
12 known to me (or proved to me under oath or through  
13 ) (description of identity  
14 card or other document) to be the person whose name is  
15 subscribed to the foregoing instrument and  
16 acknowledged to me that they executed the same for the  
17 purposes and consideration therein expressed.

18 Given under my hand and seal of office this  
19 day of , 2002.

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NOTARY PUBLIC IN AND FOR  
THE STATE OF

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10 REPORTER'S CERTIFICATION  
DEPOSITION OF ROBERT FRANCIS MOZAK  
11 APRIL 30TH, 2002

12 I, Debra L. Sietsma, Certified Shorthand Reporter  
13 in and for the State of Texas, hereby certify to the  
14 following:

15 That the witness, ROBERT FRANCIS MOZAK, was duly  
16 sworn by the officer and that the transcript of the  
17 oral deposition is a true record of the testimony  
18 given by the witness;

19 That the deposition transcript was submitted on  
20 May 9th, 2002, to the attorney for Dey, Inc., for  
21 examination, signature and return to me by  
22 May 29th, 2002;

23 That the amount of time used by each party at the  
24 deposition is as follows:

25 MR. WINTER - 2 hours, 5 minutes  
MR. BREEN - 2 hours, 52 minutes

FREDERICKS-CARROLL REPORTING  
AUSTIN (512) 477-9911 - HOUSTON (713) 572-8897

1       That pursuant to information given to the  
2 deposition officer at the time said testimony was  
3 taken, the following includes counsel for all parties  
4 of record:

5           MR. JOE CRAWFORD,  
            Attorney for Plaintiff;  
6           MR. JAMES JOSEPH BREEN,  
            Attorney for the Relator;  
7           MR. STEPHEN M. HUDSPETH,  
            Attorney for Defendant Dey, Inc.;  
8           MR. R. ERIC HAGENSWOLD,  
            Attorney for Defendant Roxane  
9           Laboratories, Inc.;  
            MR. C. MICHAEL MOORE,  
10           Attorney for Defendant Warrick  
            Pharmaceuticals Corporation.

11

12       I further certify that I am neither counsel for,  
13 related to, nor employed by any of the parties or  
14 attorneys in the action in which this proceeding was  
15 taken, and further that I am not financially or  
16 otherwise interested in the outcome of the action.

17       Further certification requirements pursuant to  
18 Rule 203 of TRCP will be certified to after they have  
19 occurred.

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1       Certified to by me this 9th day of May, 2002.

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JOB NO. 8534

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Debra L. Sietsma, TX CSR 1573  
Expiration Date: 12/31/02  
Fredericks-Carroll Reporting  
7719 Wood Hollow Drive, Suite 156  
Austin, Texas 78731  
Telephone: (512) 477-9911  
              (800) 234-3376  
Fax:           (512) 345-1417

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AUSTIN (512) 477-9911 - HOUSTON (713) 572-8897



1           FURTHER CERTIFICATION UNDER RULE 203 TRCP

2           The original deposition was/was not returned to  
3 the deposition officer on May 29th, 2002;

4           If returned, the attached Changes and Signature  
5 page contains any changes and the reasons therefor;

6           If returned, the original deposition was delivered  
7 to Mr. Raymond C. Winter, Custodial Attorney;

8           That \$                   is the deposition officer's  
9 charges to The State of Texas for preparing the  
10 original deposition transcript and any copies of  
11 exhibits;

12           That the deposition was delivered in accordance  
13 with Rule 203.3, and that a copy of this certificate  
14 was served on all parties shown herein on and filed  
15 with the Clerk.

16           Certified to by me this           day of May,  
17 2002.

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20                   Debra L. Sietsma, TX CSR 1573  
21                   Expiration Date: 12/31/02  
22                   Fredericks-Carroll Reporting  
23                   7719 Wood Hollow Drive, Suite 156  
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